



## CONDITIONAL USE PERMIT / VARIANCE APPLICATION

Liberty Lake Planning & Community Development  
22710 E. Country Vista Blvd., Liberty Lake WA 99019  
Phone: (509) 755-6707 Fax: (509) 755 6713  
Website: [www.libertylakewa.gov](http://www.libertylakewa.gov)

### **INTENT**

**Variances** may be issued to provide relief from certain provisions of the Zoning Code for a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the vicinity and similar zone classification and which adjustment remedies the difference in privileges; provided, however, that a variance granted shall not authorize a use otherwise prohibited in the zone classification in which the property is located.

### **Variance Conditions and Requirements**

Any variance from the terms of the Zoning Code shall be subject to such conditions as will:

1. ensure that the adjustment shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and similar zone classification in which the property is situated,
2. ensure that the intent and purpose of the Zoning Code is maintained with regard to location, site design, appearance, landscaping, and other features of the proposal, and
3. protect the environment, public interest and general welfare, and that the following circumstances are found to apply:
  - a. Because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the Zoning Code creates practical difficulties and is found to deprive the property of rights and privileges enjoyed by other properties in the vicinity and similar zone classification;
  - b. That the granting of the variance will neither be materially detrimental to the public welfare nor injurious to the property or improvements in the vicinity and zone in which the property is located.

The following, while not to be considered as sole substantiation, shall be considered in the granting of a variance:

1. Strict application of the Zoning Code standard(s) creates an unreasonable burden in light of the purpose to be served by the Code;
2. Relaxation of the Zoning Code standard will allow a more environmentally sensitive, energy conserving design, or result in the adaptive reuse of an historic property;
3. A broader public or community need or interest will be served by granting the variance as opposed to denying the application.

The granting of a variance generally should not:

1. Be substantially based upon precedent established by illegal or nonconforming circumstances;
2. Establish a precedent which will adversely affect the zoning concept for an area or the City as a whole;
3. Be substantially based upon a lack of reasonable economic return or a claim that the existing structure is too small;
4. Be inconsistent with the general purpose and intent of the Comprehensive Plan;
5. Be denied because the property, at the time of acquisition, was characterized by the practical difficulties giving rise to the request for a variance;
6. Result in a de facto zone reclassification;
7. Be substantially for the purpose of circumventing density regulations designed to protect groundwater.

For the purpose of implementation of Section 14.404.082 of the Zoning Code, the following terms and concepts shall have the following meaning.

1. "Deprived of privileges commonly enjoyed by other properties" means, among other applicable contexts, reduced development options or opportunities due to practical difficulties associated with the property.

2. "Special circumstances" as used within the Zoning Code must apply to the property; but may also apply to the same vicinity within which the property is located.
3. "Vicinity" shall have a "sliding scale" meaning to the effect that high-intensity use vicinities may be as localized as several hundred feet from the property and low-intensity use vicinities may comparably include several square miles.
4. "Similar zone classification" may include some zone classifications or the same general categories where a finding can be made that the impact of granting a variance would have no greater adverse impact than circumstances generally existing and permitted in the zone.
5. "Practical difficulties" are one or more of any number of differences in privileges characteristic of a property due to a combination of special circumstances and the standards of the Zoning Code, provided that a practical difficulty:
  - a. shall not solely be a parcel alleged as too small for a given use if the subject property can be put to any number of similar or alternative uses conforming to the standard;
  - b. may be the gross restriction or preemption of innovative or state-of-the-art technology not anticipated by the drafters of this Code; or
  - c. may be the result of a governmental action, error or oversight which is not unlawful.

**Conditional Use Permits** allow for a use listed among those in any given zone, but permitted to locate only after a public hearing and the decision to grant a permit (conditional use permit) imposing such performance standards as will make the use compatible with other permitted uses in the same vicinity and zone and ensure against excessive interference with other permitted uses or imposing excessive demands upon public utilities and facilities as determined by the Hearing Body.

#### Conditional Use Permits Conditions and Requirements

Before issuing a conditional use permit, the Hearing Examiner shall find that the following facts and conditions exist:

1. Adequate conditions and restrictions are attached to the development of the property to ensure that the proposed use will be compatible with uses permitted outright in this location;
2. The special standards as outlined in the Zoning Code for the underlying zone shall be met.

The following conditions and requirements pertain to a conditional use:

1. In approving a conditional use permit, the Hearing Examiner may stipulate restrictions and conditions, including but not limited to the following:
  - a. Control of use;
  - b. Provision for front, side, or rear setbacks greater than the minimum standards of the zone within which the property is located;
  - c. Special landscaping, screening, fencing, signing, off-street parking, public transit and/or high occupancy vehicle facilities or any other general development standards;
  - d. Requiring street dedications and/or roadway and drainage improvements necessary as a result of the proposed use;
  - e. Control of points of vehicular ingress and egress;
  - f. Control of noise, vibration, odor, glare, and other environmental contaminants;
  - g. Control of operating hours;
  - h. Duration or time limitations for certain activities; and/or
  - i. Any other reasonable restrictions, conditions, or safeguards that will uphold the spirit and intent of the Zoning Code and the Comprehensive Plan and mitigate any adverse impact upon the adjacent properties by reason of use, extension, construction, or alteration allowed.
2. A conditional use permit may be suspended or revoked if, after a public hearing with notice as provided in Section 14.404.060 of the Zoning Code, the Hearing Body finds that a grantee or their successors in interest fail to comply with conditions or restrictions included in the permit.

## **APPLICATION PROCEDURES**

An application and burden of proof form for a variance or conditional use permit may be filed by the owner(s) of property to which said variance or conditional use permit would directly apply. The City shall collect from the property owner an application fee, as established in the Planning & Community Development Dept. (P&CD) Fee Schedule, which may cover normal processing costs. Prior to filing an application for a variance or conditional use permit, an applicant shall complete a Pre-Application Conference Request Form and a Pre-Application Conference shall be held to review the proposal and the application process.

Upon finding that the required fee has been paid and that the application is complete, P&CD shall place the request for a variance or conditional use permit on the earliest available hearing agenda of the Hearing Examiner and shall forward to the Hearing Examiner in writing a report and recommendation on the request. Hearing Examiner decisions require an 'open record' public hearing before the Hearing Examiner, full public notice, and they may or may not require SEPA. The Hearing Examiner shall make available to all parties of record its written decision, findings of fact, and conclusions. The action of the Hearing Examiner shall be considered final and conclusive unless an appeal is filed with the Planning & Community Development Dept. (P&CD) under procedures set forth in Section 14.412.042 of the Zoning Code or City Municipal Code Chapter 9, as applicable. The 'closed record' appeal of a Hearing Examiner decision is heard by the City Council.

### **Variance and Conditional Use Permits: Notice**

The applicant shall be responsible for preparing the Type II Project Permit public notice and preparation instructions will be supplied to the applicant by P&CD. When an application is continued by action or request of the applicant for a period of time longer than forty-five (45) days, the applicant shall be responsible for re-notifying the public in the same manner as the original notification.

## **APPLICATION - PART 1**

**ANSWER THE FOLLOWING, AS APPLICABLE (ANSWER N/A IF NOT APPLICABLE)**

### **REQUESTED ACTIONS(S) - Indicate appropriate request:**

- |   |   |
|---|---|
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Expansion of a Nonconforming Use |
| <input type="checkbox"/> Variance(s)            | <input type="checkbox"/> Other (list): _____              |

### **PROPERTY OWNER:**

Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Signature: \_\_\_\_\_ E-mail: \_\_\_\_\_

### **PROPERTY OWNER 2 :** (if more than two property owners attach additional info/signature sheets)

Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Signature: \_\_\_\_\_ E-mail: \_\_\_\_\_

The above signed property owners certify that the above information is true and correct to the best of our knowledge and under penalty of perjury, each state that we are all of the legal owners of the property described above and designate the below listed agent/consultant/attorney to act as our agent with respect to this application.

### **AGENT/ CONSULTANT/ ATTORNEY:** (mandatory if primary contact is different from property owner)

Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Signature: \_\_\_\_\_ E-mail: \_\_\_\_\_

**PROJECT INFORMATION**

Site Address / Location: \_\_\_\_\_

Parcel Number(s) of Project / Proposal: \_\_\_\_\_

Legal Description of Project / Proposal: \_\_\_\_\_

Section\_\_\_\_\_ Township\_\_\_\_\_ Range\_\_\_\_\_ Source of Legal Description: \_\_\_\_\_

Parcel Size(s): \_\_\_\_\_

Adjacent Area Owned or Controlled (acres or sq. ft.): \_\_\_\_\_

Parcel Number(s) of Adjacent Area: \_\_\_\_\_

Existing Use of Subject Property: \_\_\_\_\_

Describe proposed use of the property, noting change from "existing use": \_\_\_\_\_

Zoning Designation: \_\_\_\_\_ Land Use Designation: \_\_\_\_\_

School District: \_\_\_\_\_ Fire District: \_\_\_\_\_

Sewer Purveyor: \_\_\_\_\_ Water Purveyor: \_\_\_\_\_

List Previous Planning Actions Involving Subject Property: \_\_\_\_\_

Name of Public Road(s) Providing Access: \_\_\_\_\_

Width of Property Fronting on Public Road: \_\_\_\_\_

Does the Proposal Have Access to an Arterial or Planned Arterial: ☐ YES ☐ NO

Name of Arterial Road(s): \_\_\_\_\_

Variance applications - state the Code standard and describe the variance sought in comparable terms (i.e., 50 feet from centerline verses required 65 feet): \_\_\_\_\_

Conditional Use Permit applications - does the proposal meet all standards? Yes No

If not, has one or more variances been requested? Yes No

## **APPLICATION - PART 2**

### **THE ITEMS BELOW MUST BE SUBMITTED WITH YOUR APPLICATION, AS APPLICABLE:**

- ☐ **APPLICATION FORM**  
Submit completed application on the attached form with all signature blocks completed and non-refundable application fees and associated environmental fees (contact the Planning & Community Development Dept. for a copy of the current fee schedule). *Acceptance of the application and fees does not guarantee approval of the variance or conditional use permit.*
- ☐ **ASSESSOR'S SECTION MAPS**  
Submit **2** copies of current County Assessor maps showing the subject property outlined in red and adjacent property owned or under option to the owner or sponsor (indicate adjacent property with a red dashed line). Adjacent includes property located across roads and rivers, etc.  
  
Assessor maps are available at the County Assessor's Office and must be current (less than 30 days old) at the time of submittal and stamped by a licensed land surveyor. Platted (1"=200') and range (1"=400') parcel maps must be obtained, as you may need both sets, depending on your property location. The maps are used for legal notification of property owners adjacent to the property (shown in red).  
  
Note: The property does not have to be surveyed at this time. The map stamped by a licensed land surveyor verifies the written legal description for the subject property is an approximate representation on the map.
- ☐ **ZONING SECTION MAP**  
Submit 1 copy of the official zoning map with the zoning labeled on the property. The zoning boundary shall be stamped by a licensed land surveyor. Copies of official zoning maps are obtainable from the City of Liberty Lake Planning & Community Development Department. (The written legal description(s) on the application form and the zoning boundary(s) shown on the map shall coincide).  
  
Note: The property does not have to be surveyed at this time. The map stamped by a licensed land surveyor verifies the written legal description for the subject property is an approximate representation on the map.
- ☐ **ENGINEER'S SECTION MAPS**  
Submit **1** current copy of the section map(s) showing the subject property outlined in red. Engineer section maps are available at the County Engineer's office
- ☐ **LEGAL DESCRIPTION**  
The legal description of the property shall be illustrated on the site plan. The source of the legal description shall be clearly indicated.
- ☐ **ENVIRONMENTAL CHECKLIST**
- ☐ **CERTIFICATE OF WATER & SEWER AVAILABILITY**  
Submit 1 copy of a signed certificate of water availability from the water purveyor and 1 copy of a letter from the sewer purveyor discussing how sewer will be provided to the site (size of lines and improvements required to connect) and whether the required improvements are in conformance with the approved sewer comprehensive plan or an amendment to the sewer comprehensive plan is required.
- ☐ **REQUIRED PUBLIC NOTICE** - Planning & Community Development staff will provide you with the preparation instructions at the Pre-Application Conference
- ☐ **SITE PLAN**  
Submit **3** copies of the proposal (11" x 17" minimum) with written legal description and containing:
  - a. Scale of drawing & North arrow
  - b. Vicinity map
  - c. Site area showing property boundaries & dimensions
  - d. Width and names of streets adjacent to the site
  - e. Existing buildings

- f. Proposed buildings (including exterior decks/balconies) showing dimensions and distance to property boundaries
- g. Height of all structures
- h. Parking areas/ spaces/ driveways
- i. Landscaping
- j. Fencing
- k. Topography of the site
- l. Easement(s) affecting the use of the property
- m. Septic tank, drainfield, and well
- n. Dimensions from proposed structures to the ordinary high-water mark of all water bodies
- o. Location and size of all wetlands
- p. Easement which provides access to the public street
- q. Access, if different from easement

☐ **OTHER EXHIBITS OR APPLICATIONS**

Certificate of Exemption \_\_\_\_\_  
 Administrative Exception \_\_\_\_\_  
 Other: \_\_\_\_\_

☐ **CONCERNS OR NOTES**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### **APPLICATION - PART 3**

#### **SURVEYOR VERIFICATION**

I, THE UNDERSIGNED, A LICENSED LAND SURVEYOR, HAVE COMPLETED THE INFORMATION REQUESTED. THE MAP / SITE PLAN HAS BEEN PREPARED BY ME OR UNDER MY SUPERVISION IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF LIBERTY LAKE ZONING / SUBDIVISION REGULATIONS AND THE LAWS OF THE STATE OF WASHINGTON.

PRINTED NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

SIGNATURE OF SURVEYOR \_\_\_\_\_ DATE \_\_\_\_\_

#### **BURDEN OF PROOF FORM(S) - by applicant**

It is necessary for the property owner or his/her representative to establish the reasons why the requested action should be approved and to literally put forth the basic argument in favor of approving the application. Accordingly, complete the applicable form below for your requested action (variance, conditional use, etc.) designed to help you present your case in a way which addresses the criteria which the Hearing Examiner must consider. Please complete the form and return with your application.

I, THE UNDERSIGNED, SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE ABOVE RESPONSES ARE MADE TRUTHFULLY AND TO THE BEST OF MY KNOWLEDGE. I FURTHER SWEAR OR AFFIRM THAT I AM THE OWNER OF RECORD OF THE AREA PROPOSED FOR THE PREVIOUSLY IDENTIFIED LAND USE ACTION, OR, IF NOT THE OWNER. ATTACHED HEREWITH IS WRITTEN PERMISSION FROM THE OWNER AUTHORIZING MY ACTIONS ON HIS/HER BEHALF.

PRINTED NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

SIGNATURE OF OWNER OR REPRESENTATIVE

DATE

STATE OF WASHINGTON )  
 ) ss:  
CITY OF LIBERTY LAKE )

Notary: Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the State of Washington

Residing at: \_\_\_\_\_

My Appointment Expires: \_\_\_\_\_

**THIS APPLICATION AND ALL SUPPORTING MATERIAL REQUIRED BY THE CITY MUST BE SUBMITTED AT THE TIME OF APPLICATION IN ORDER FOR THE APPLICATION TO BE COMPLETE.**

**(PLANNING & COMMUNITY DEVELOPMENT DEPT. OFFICE USE ONLY)**

DATE RECEIVED: \_\_\_\_\_ RECEIVED BY: \_\_\_\_\_

DATE COMPLETE: \_\_\_\_\_ FILE NUMBER: \_\_\_\_\_

TOTAL FEES: \_\_\_\_\_ RECEIPT NUMBER: \_\_\_\_\_

ADDITIONAL INFORMATION: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## VARIANCE BURDEN OF PROOF FORM

Applicant Name: \_\_\_\_\_

File: \_\_\_\_\_

A "variance" is the means by which an adjustment is made in the application of the specific regulations of the zoning classification for a particular (the subject) piece of property. This property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the vicinity and in a similar zone classification. This adjustment rededies the difference in privileges. A variance shall not authorize an otherwise prohibited use.

The following questions will help to determine the outcome of your request. Your request requires accurate and complete responses. First circle either the "yes" or the "no" answer(s) following the questions below as they apply to your situation and then explain as needed (in the space provided) to make your unique situation clear. Certain phrases from the Zoning Code of the City of Liberty Lake section on variances are included in these questions and are underlined for convenience.

A. Will this variance permit a use which is otherwise prohibited in the zone? Yes      No

Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B. Are there special circumstances (lot size, shape, topography, location, access, surroundings, etc.) which apply to the subject property and which may not apply to other properties in the vicinity? Yes      No

Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. Is the subject property deprived of privileges commonly enjoyed by other properties in the vicinity and in a similar zone classification? Yes      No

Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

D. Will this variance be harmful to the public welfare or to other properties in the vicinity and a similar zone classification? Yes      No

Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

E. Are there other similar situations in the <u>vicinity</u> in a <u>similar zone classification</u> ?			Yes	No
Are they <u>permitted uses</u> ?	Yes	No	Are they <u>'nonconforming' uses</u> ?	Yes      No

Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

F. Could the subject property be put to a reasonable and permitted use by you or another person without the requested variance? Yes      No

Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

G. If this request is granted, will the subject property be more environmentally sensitive, energy conserving, or will it promote the use of a historic property? Yes      No

Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

H. If this variance is granted, will the broader public need or interest be served? Yes      No

Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I. Will this variance be inconsistent with the purpose of the zoning or the land use designation which applies to the subject property? Yes      No

Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

J. Will approval of this variance grant to the subject property the privileges of a different zone classification (in other words would this be a "de facto" zone change)? Yes      No

Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

K. Will this variance be inconsistent with the purpose and intent of the Comprehensive Plan?      Yes      No  
Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

L. Is this variance required for a reasonable economic return from the subject property or is the existing structure too small?      Yes      No  
Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

M. Did the practical difficulty which caused you to apply for this variance exist before you owned the subject property?      Yes      No  
Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

N. If approved, would this variance affect land use density regulations which exist to protect the Rathdrum/Spokane Aquifer?      Yes      No  
Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF OWNER OR REPRESENTATIVE

\_\_\_\_\_  
DATE

Attach an additional page(s) if needed. You are invited to present photographs, diagrams, maps, charts, video tapes, etc. in support of this application. No such additional material is required and in any case it must be BRIEF and descriptive of issues which need to be considered in relation to this requested variance. If you have questions about the procedure to be followed feel free to contact the City of Liberty Lake Planning & Community Development Department at 755-6707.

**CONDITIONAL USE PERMIT BURDEN OF PROOF FORM**

Applicant Name: \_\_\_\_\_ File: \_\_\_\_\_

Conditional Uses State Law, Section 36.70.020(7), clarifies that the City regulations must specify the standards and criteria that shall be applied in the review by the Hearing Examiner. Condition(s) of approval may also be added to assure compatibility with other uses in the same zone.

A. Assuming the proposal is listed as a "permitted" conditional use, do you believe the proposal meets all of the required, established, and applicable standards? Yes      No

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. If you cannot meet the conditional uses required standards, are you seeking relief by applying for an administrative exception or a variance? Yes      No

C. What have you done or could you do to:

1. Make the use compatible with other permitted activities in the same vicinity or zone?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Ensure against imposing excessive demands upon public utilities?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D. Explain how or why the proposal will not be detrimental to:

1. The Comprehensive Plan: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Surrounding property: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

DATE \_\_\_\_\_

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